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RAPILLO, KRISTINE K				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/798,999

Applicant(s)

LYAKOVETSKY, DANIEL

Examiner

KRISTINE K. RAPILLO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-17 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment submitted February 5, 2009. Claims 1 – 6 and 9 – 17 are amended. Claims 7 and 8 are cancelled. Claims 1 – 6 and 9 – 17 are presented for examination.

Claim Objections

2. Claim 12 is objected to because of the following informalities: The word "identify" is misspelled in the limitation "indentify one or more expired data points". Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 recites the limitation "said data store" in "retrieve said plurality of data points from said data store and produces a metric from said plurality of data points". There is insufficient antecedent basis for this limitation in the claim.

5. Claims 1 - 11 are rejected under 35 U.S.C. 112, second paragraph for as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear whether the processor performs all the functions of the claim or just the configure to reduce the information function. The preamble of claim 1 makes it appear that the processor is configured to perform all steps in the claim however the last step in the claim indicates that the processor is configured to reduce the information. Claims 2 - 11 have similar deficiencies as noted above with regard to claim 1 and therefore are rejected for substantially the same reason.

6. The 35 U.S.C. 112, second paragraph rejection of claim 1 regarding the phrase "expired data points" is hereby withdrawn based on the amendment submitted February 5, 2009.

Claim Rejections - 35 USC § 101

7. The 35 U.S.C. 101 rejections of claims 14 – 16 are hereby withdrawn based upon the amendment submitted February 5, 2009.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1 – 2, 5, 10 – 12, and 14 - 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCallum (U.S. Patent Number 5,784,635) further in view of Wiggins (U.S. Publication Number 2002/0120473 A1).

In regard to claim 1 (Currently Amended), McCallum teaches an apparatus comprising a processor configured to:

convert a data point from a first format into a uniform format, wherein said data point represents data from an insurance claim (column 5, lines 1 – 4; column 6, lines 40 – 46; and, column 10, lines 44 – 50) where McCallum teaches converting source data into a uniform format which includes insurance company data;

receive said data point in said uniform format and send said data point to a memory, wherein said data point is a member of a plurality of data points in said uniform format in said memory (column 6, lines 22 – 56) where McCallum discloses importing the uniform source data. It is inherent that when data is imported to a destination, it is received at a destination; and

retrieve said plurality of data points from said data store and produces a metric from said plurality of data points (column 7, lines 6 – 33 and column 8, lines 36 – 52) where McCallum discloses “cleaning”

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in which data points having common elements are linked (i.e. producing a metric such as patient, physician, payor, hospital) and anomalies in the data are cleaned.

Wiggins teaches an apparatus comprising a processor configured to: identify one or more expired data points of said plurality of data points in said memory (paragraph [0081] where a user can search for (i.e. identify) a particular transaction, which the Examiner equates to a data point/claim) and creates at least one summary associated with the one or more expired data points (paragraph [0081] where a user can obtain a transaction summary): wherein each of the expired data points are associated with a time period (paragraphs [0034] and [0081] where the claim processing data expires after a period of time) and wherein the summary comprises information associated with one or more insurance claims and the processor is configured to reduce the information in at least one of the insurance claims in response to a respective time period elapsing (paragraphs [0034], [0050], and [0055]). The phrase "expired data" is a design choice; the data is relabeled after an arbitrary time, thus renamed data remains the same.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an apparatus comprising a processor configured to: identify one or more expired data points of said plurality of data points in said memory and creates at least one summary associated with the one or more expired data points: wherein each of the expired data points are associated with a time period and wherein the summary comprises information associated with one or more insurance claims and the processor is configured to reduce the information in at least one of the insurance claims in response to a respective time period elapsing as taught by Wiggins, within the system of McCallum, with the motivation of providing a system to be used by a provider to track patient information including patient billing (paragraph [0013]).

In regard to claim 2, McCallum and Wiggins teach the apparatus of claim 1.

Wiggins further teaches an apparatus wherein the processor is further configured to issue an alert if said metric satisfies an alertable condition (paragraph [0061]) where an "alert" object reads and writes alerts to and from the database.

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The motivation to combine the teachings of Wiggins and McCallum is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 5, McCallum and Doherty teach the apparatus of claim 1. McCallum further teaches an apparatus:

- wherein said data point is a first data point (claim 1 of McCallum); and
- wherein the processor is further configured to convert a second data point from a second format into said uniform format (column 6, lines 47 through column 7, line 5),
- wherein said second data point represents data from an insurance claim (column 10, lines 44 – 50), and
- wherein said second format is different from said first format (column 6, line 47 – through column 7, line 5), and
- wherein said processor is further configured to receive said second data point in said uniform format and send said second data point to said memory (column 7, lines 6 – 33 and column 8, line 36 – 52).

McCallum does not explicitly teach an apparatus, although McCallum states in the specification that the system described can be used for providing physician data (i.e. diagnosis codes, patient identification) uniformly linked to hospitals, insurance companies, and more (column 6, line 40 through column 7, line 5). However, McCallum teaches a system and method for standardizing a physicians records located at physician's offices, laboratories, hospitals, etc. McCallum teaches a method and system in which data is extracted and converted into a uniform format, sent to a database, and forms a metric (i.e. measure number of patients using the same insurance company).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a method and system as taught by McCallum as the invention disclosed by McCallum teaches all of the limitations as the applicant's invention. McCallum teaches a system which provides an efficient means for claim processing by enabling all claims submitted, from any number of systems, to be in a uniform formation to ensure accurate and reliable information (column 2, lines 43 – 62).

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In regard to claim 9, McCallum and Wiggins teach the apparatus of claim 1.

Wiggins further teaches a system wherein said one or more expired data points subsequent to being aggregated by said processor, are deleted from said memory (paragraph [0061]).

The motivation to combine the teachings of McCallum and Wiggins is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 17, McCallum and Wiggins teach the apparatus of claim 9.

Wiggins further teaches a system wherein said processor is further configured to store the at least one summary in said memory (paragraphs [0034], [0050] and [0055]).

The motivation to combine the teachings of McCallum and Wiggins is discussed in the rejection of claim 1, and incorporated herein.

Apparatus and computer program product claims 10, 12, and 14 – 16 repeat the subject matter of claims 1 – 2, 5, and 17. As the underlying processes of claims 1 – 2, 5, and 17 have been shown to be fully disclosed by the teachings of McCallum and Wiggins in the above rejections of claims 1 – 2, 5, and 17; as such, these limitations (10, 12, and 14 – 16) are rejected for the same reasons given above for claims 1 – 2, 5, and 17 and incorporated herein.

10. Claims 3, 4, 6, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCallum (U.S. Patent Number 5,784,635) in view of Wiggins (U.S. Publication Number 2002/0120473 A1), and further in view of Pish (U.S. Publication Number 2003/0009357 A1).

In regard to claim 3, McCallum and Wiggins teach the apparatus of claim 1. Wiggins teaches a system where the alertable condition is (b) an experience-based condition (paragraph [0069]).

Pish further teaches a system wherein said alertable condition is selectable by the processor from the group consisting of (a) a threshold-based condition (paragraph [0279] where error messages are

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detected based on levels (thresholds)) and (c) a rule-based condition (paragraphs [0121] through [0129]). Pish discloses an invention in which claims are organized based upon detailed information in the claims (paragraphs [1359], [1474], and [1537]). A claim folder manages the claim information from start to finish and triggers responses to perform tasks (paragraphs [1344] through [1355]), thus Pish discloses rules based conditions.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system wherein said alertable condition is selectable by the processor from the group consisting of (a) a threshold-based condition and (c) a rule-based condition as taught by Pish, within the apparatus of McCallum and Wiggins, with the motivation of providing a system in which data sets can be organized and linked to one another for a particular project (paragraph [0019]), thus organizing claims is considered a data set and can be linked to other claims.

In regard to claim 4, McCallum and Wiggins teach the apparatus of claim 1.

Pish teaches an apparatus wherein said metric is in a form of a data cube (paragraphs [1176] – [1177]). Pish's disclose an array of values to detect the differences of the query. A data cube was defined by the applicant in paragraph [0014] of the specification as an array of values.

The motivation to combine the teachings of McCallum, Wiggins, and Pish is discussed in the rejection of claim 3, and incorporated herein.

In regard to claim 6, McCallum and Wiggins teach the apparatus of claim 1.

Pish further teaches an apparatus wherein said metric is a first metric in a form of a first data cube having a first set of dimensions, and wherein said processor is further configured to produce a second metric from said plurality of data points in a form of a second data cube having a second set of dimensions (Abstract and paragraph [0019]).

The motivation to combine the teachings of McCallum, Wiggins, and Pish is discussed in the rejection of claim 3, and incorporated herein.

Apparatus and computer program product claim 13 repeats the subject matter of claim 3. As the underlying processes of claim 3 has been shown to be fully disclosed by the teachings of McCallum, Wiggins, and Pish in the above rejections of claim 3; as such, these limitations (13) are rejected for the same reasons given above for claim 3 and incorporated herein.

Response to Arguments

11. Applicant's arguments filed February 5, 2009 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed February 5, 2009.

In response to the Applicant's argument, it is respectfully submitted that the Examiner has applied new prior art to the claims; as such, Applicant's remarks with the regard to the application of McCallum and Doherty are moot.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KKR

/C. Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626